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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No. : 10/532,652
Applicant : Rudi KROPF et al
Filed : April 25, 2005
TC/A.U. : 3751
Examiner :

Docket No. : 2923-697
Customer No.: 6449
Confirmation No. : 6294

SUBMISSION OF INTERNATIONAL PRELIMINARY EXAMINATION REPORT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Submitted herewith is a copy of the translation of the International Preliminary Examination Report.

In the event that any fees are due with this paper, please charge our Deposit Account No. 02-2135.

Respectfully submitted,

By

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RBM/cb

Translation

PATENT COOPERATION TREATY

PCT/EP2003/011709



PCT

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference 31092P WO	FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416)	
International application No. PCT/EP2003/011709	International filing date (<i>day/month/year</i>) 22 October 2003 (22.10.2003)	Priority date (<i>day/month/year</i>) 23 October 2002 (23.10.2002)
International Patent Classification (IPC) or national classification and IPC B67C 3/22		
Applicant ADELHOLZENER ALPENQUELLEN GMBH		

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.
2. This REPORT consists of a total of 5 sheets, including this cover sheet.
- ☒ This report is also accompanied by ANNEXES, i.e., sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).

These annexes consist of a total of 5 sheets.

3. This report contains indications relating to the following items:

- I ☒ Basis of the report
- II ☐ Priority
- III ☐ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- IV ☐ Lack of unity of invention
- V ☒ Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- VI ☐ Certain documents cited
- VII ☐ Certain defects in the international application
- VIII ☐ Certain observations on the international application

Date of submission of the demand 09 June 2004 (09.06.2004)	Date of completion of this report 19 January 2005 (19.01.2005)
Name and mailing address of the IPEA/EP	Authorized officer
Facsimile No.	Telephone No.

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

PCT/EP2003/011709

I. Basis of the report

1. With regard to the elements of the international application:*

- ☐ the international application as originally filed
- ☒ the description:
pages _____ 1-16 _____, as originally filed
pages _____, filed with the demand
pages _____, filed with the letter of _____
- ☒ the claims:
pages _____, as originally filed
pages _____, as amended (together with any statement under Article 19
pages _____, filed with the demand
pages _____ 1-26 _____, filed with the letter of _____ 25 October 2004 (25.10.2004)
- ☒ the drawings:
pages _____ 1/3-3/3 _____, as originally filed
pages _____, filed with the demand
pages _____, filed with the letter of _____
- ☐ the sequence listing part of the description:
pages _____, as originally filed
pages _____, filed with the demand
pages _____, filed with the letter of _____

2. With regard to the language, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language _____ which is:

- ☐ the language of a translation furnished for the purposes of international search (under Rule 23.1(b)).
- ☐ the language of publication of the international application (under Rule 48.3(b)).
- ☐ the language of the translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any nucleotide and/or amino acid sequence disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
- ☐ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority in written form.
- ☐ furnished subsequently to this Authority in computer readable form.
- ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. ☐ The amendments have resulted in the cancellation of:

- ☐ the description, pages _____
- ☐ the claims, Nos. _____
- ☐ the drawings, sheets/fig _____

5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).**

* Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rule 70.16 and 70.17).

** Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.
PCT/EP 03/11709

V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Claims	1-26	YES
	Claims		NO
Inventive step (IS)	Claims	1-26	YES
	Claims		NO
Industrial applicability (IA)	Claims	1-26	YES
	Claims		NO

2. Citations and explanations

Reference is made to the following document:

D1: EP-A-0 421 597 (GUINNESS SON & CO LTD A) 10 April 1991
(1991-04-10)

1. INDEPENDENT CLAIMS 1 AND 16

1.1. Document D1 is considered the prior art closest to the subject matter of claim 1. It discloses (the references in parentheses are to D1):

a method for dispensing a beverage into a beverage container, comprising the steps:

- filling (36) the beverage container (34);
- sealing (40) a container opening of the beverage container (34), a predetermined amount (26) of liquid oxygen (column 6, lines 29-33) being discharged into the beverage container (34/38) and said beverage container being sealed (40-42) immediately after the discharge of the liquid oxygen.

The subject matter of claim 1 thus differs from the known method in that the liquefaction of the oxygen in a heat exchanger that is charged with gaseous oxygen and a coolant does not occur until shortly before it is added to the beverage container.

Therefore, the subject matter of claim 1 is novel (PCT Article 33(2)).

- 1.2. The problem to be solved by the present invention can thus be seen as that of reducing the operating risks associated with liquid oxygen, in particular the risk of explosion and fire.

The solution to this problem as proposed in claim 1 of the present application involves an inventive step (PCT Article 33(3)) for the following reasons:

Liquefying the oxygen immediately before it is added to the beverage container eliminates the need for intermediate storage in bottles or tanks.

- 1.3. The same argument applies accordingly to independent device claim 16. Therefore, the subject matter of claim 16 is novel (PCT Article 33(2)) and involves an inventive step (PCT Article 33(3)).

2. DEPENDENT CLAIMS 2-15 AND 17-26

- 2.1. Claims 2-15 and 17-26 are dependent upon claims 1 and 16, respectively, and thus likewise satisfy the PCT requirements with respect to novelty and inventive step.